

MAR 26 2015

SUBJECT: Worldwide Deployment of New USCIS Form I-407, Record of Abandonment of Lawful Permanent Resident Status

2. Summary: Effective March 26, 2015, a new version of USCIS Form I-407, Record of Abandonment of Lawful Permanent Resident (LPR) Status, will be implemented worldwide. After March 26, 2015, posts must discontinue use of prior versions of the Form I-407. This message provides updated guidance to posts on processing Form I-407. 9 FAM 42.22 N3.2, Alien Relinquishment of Form I-551, Permanent Resident Card, will be updated to reflect the guidance in this message.

The purpose of Form I-407

3. Form I-407 provides a means by which an individual may formally record that he or she has voluntarily abandoned LPR status. In addition to creating a record, use of Form I-407 is designed to ensure that the individual acted voluntarily, willingly, and affirmatively with the intent to abandon LPR status. The decision to abandon LPR status is strictly voluntary and consular staff should not encourage or require individuals to abandon LPR status under any circumstances. Per 9 FAM 42.22 N10, visa applicants are not required to relinquish their LPR status as a condition of immigrant or nonimmigrant visa (NIV) issuance. The processing of Form I-407 at consular sections is not adjudication, and consular officers accepting and processing the form do not make a formal finding of loss of LPR status through abandonment. This determination falls exclusively to immigration judges within the Department of Justice's Executive Office for Immigration Review.

Who can file Form I-407

4. Any individual with LPR status may file a Form I-407 to formally record abandonment of LPR status. The parent(s) or legal guardian(s) of an individual who is 17 years of age or younger may file a Form I-407 on behalf of the minor. Please see paragraph 16 for more guidance on minors.

When do consular sections process Form I-407

5. Form I-407 may be filed by individuals who are outside of the United States or at a port of entry. Form I-407 may be filed in person or by mail.

6. USCIS has delegated authority to consular officers to accept and process Form I-407 in countries and at posts where USCIS does not have a presence. If USCIS has an office at your post, Form I-407 should be filed and processed with USCIS. USCIS International Field Offices are not limited to accepting Form I-407 from LPRs who only reside in the country in which the office is located. Offices may accept Form I-407 from any person who walks in or mails it, regardless of country of residence.

7. In countries or at posts where USCIS is not present, consular officers can either accept Form I-407 and any surrendered documents in person or provide the link to the USCIS website in order for the individual to locate the mailing address for the nearest USCIS International Office.

Filing by Mail

8. Individuals may, and are encouraged to, file Form I-407 by mail directly to the nearest USCIS International Office. Addresses for USCIS International offices can be found here: <http://www.uscis.gov/international>.

9. Filing by mail or in person requires the submission of the same documents:

- Completed, signed Form I-407, or signed statement of abandonment;
- Form I-551, if available. If not available, the appropriate box in Part 1, item 11.b should be checked;
- All other issued USCIS booklets and cards, if applicable.

10. Consular sections should advise those choosing to file by mail that any submissions containing an unsigned Form I-407 or unsigned statement of abandonment will be rejected and returned unprocessed by USCIS.

Filing in Person

11. Individuals submitting Form I-407 in person must be interviewed by an officer only if there is any indication that the individual is not acting voluntarily in recording the abandonment of LPR status. The purpose of the interview is to ensure that the individual is acting voluntarily and to dispel any misinformation that may have led the LPR to believe he or she must abandon LPR status. However, if there is no indication of involuntary abandonment either on the statement on Form I-407, or in any statement made to the consular staff who accept the form at the intake window, an interview is not required.

12. When filing in person, a signed statement of abandonment in lieu of Form I-407 is acceptable, but preferably consular staff should encourage individuals to complete Form I-407.

Completing Form I-407

13. Consular staff should ensure that Part 1, Information About the Alien, of Form I-407 is filled in by the individual as completely as possible in English. Consular staff should ensure the alien registration number (ANumber) is provided, as the form cannot be processed without this number. If an individual has previously filed a benefit request using the USCIS Electronic Immigration System (ELIS), he or she should provide the USCIS account number, if possible. This is not mandatory, however, and consular staff should not spend time searching for or verifying this number if it is not easily available.

14. If the individual who wishes to record his or her abandonment of LPR status does not have their Form I-551 (green card) to submit together with Form I-407, the appropriate box (lost/stolen/mutilated/other) for not submitting the I-551 should be ticked in Part 1, item 11.b. No further explanation is required.

The interview

15. If an interview is conducted, the consular officer should confirm the identity of the individual and that the person filing Form I-407 is in fact the LPR. During the interview, the consular officer should ensure the action of abandonment is voluntary and the individual understands the implications of abandonment of LPR status. The officer should ascertain that the individual did not make this decision based on misinformation or incorrect advice.

16. Before asking the individual to sign Form I-407, the consular officer must recite the following:

"By signing form I-407, the alien waives the right to a hearing before an immigration judge who would decide whether the alien lost his/her legal permanent resident status due to abandonment.

If the alien chooses a hearing before an immigration judge instead, the alien would have the right:

- a) To be represented at no expense to the U.S. government by an attorney or accredited representative;
- b) To challenge any evidence that DHS may present against the alien;
- c) To present evidence in the alien's favor;
- d) To require that DHS prove, by clear, unequivocal, and convincing evidence, that the alien has lost his or her lawful permanent resident status through abandonment; and
- e) To appeal a decision against the alien."

17. The right to a hearing before an immigration judge can only be exercised in the United States. An individual who resides abroad and who wishes to exercise this right will have to travel to the United States.

18. If the action is determined to be informed and voluntary, the individual should sign the form in front of the consular officer. If the form was already signed, the consular officer should confirm that the signature is of that individual (for example, have the individual sign on a separate piece of paper, etc.). There is no requirement for an oath.

19. If an interpreter is used for the interview, the interpreter must complete Part 2 of the form, providing the language he or she is fluent in, his or her full name, his or her signature, and the date.

Parental consent for minors now required

20. Parental consent is a new additional requirement for those filing Form I-407 on behalf of a minor child. If the minor is 17 or younger, each parent, custodian, or legal guardian must sign the form and consent to the submission of the form. The minor does not need to be present, but the relationship and identity of the persons signing for the minor should be clear and certain. If there is only one parent, guardian, or custodian, proof (e.g., a death certificate, custody decree, or guardianship papers) must be submitted demonstrating that this person is indeed the sole decision maker for the child, and Form I-407 must be completed accordingly (in Part 1, item 14.d). They must have sole legal custody in order to file Form I-407. Consular staff should use knowledge of local norms in determining and verifying that the sole legal custody requirement is met, and a copy of the applicable document should be submitted to USCIS along with Form I-407.

Processing Form I-407

21. Following the interview, the consular officer should complete Part 3 (For Government Use Only) of Form I-407. The consular officer should check Part 3, item 1, sign and date the form (in Part 3, items 4.a to 4.e). A copy of the signed form should be provided to the individual as a record of the action. The Form I-407, Form I-551 (if available), any other submitted documents, and a cover letter should be sent to the USCIS Texas Service Center:

USCIS TSC

P.O. Box 850965

Mesquite, TX 75185-0965

22. Please note it is no longer required for a supervisor to sign the form in addition to the consular officer who conducted the interview. Further, there is no need to place any kind of "I-407 stamp" into an individual's passport as a record. This practice should be discontinued. In addition, there is no need to physically invalidate Forms I-551 before sending them to the USCIS Texas Service Center.

If no interview is conducted

23. If it was determined that no interview was required to complete processing of Form I-407, the consular officer should check Part 3, item 2., then sign and date the form (in Part 3, items 4.a to 4.e).

Is there a charge for this service?

24. There is no fee for the customer. However this service falls under the Economy Act agreement between DHS/USCIS and the Department of State, and a no-fee ACRS receipt (service code 100) should be issued for accounting purposes. Statement of abandonment in lieu of form I-407

25. A signed statement of abandonment, with or without Form I-551, may be accepted in lieu of Form I-407. The statement should be reviewed to determine whether the individual has made an informed decision regarding the abandonment of LPR status.

26. Beginning March 26, 2015, Form I-407 can be downloaded from the USCIS website at www.uscis.gov/i-407.